

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF GOVERNMENTAL COORDINATION

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January 25, 2000

RECEIVED
JAN 26 2000

William J. Kelley
206 Rockwell, #101
Soldotna, AK 99669

Dear Mr. Kelley:

SUBJECT: MCCLURE BAY OYSTER FARM
STATE I.D. NO. AK 9905-23AA
FINAL CONSISTENCY DETERMINATION

The Division of Governmental Coordination (DGC) currently is coordinating the State's review of your proposed project for consistency with the Alaska Coastal Management Program (ACMP) and has developed this final consistency determination based on reviewers' comments.

Scope of Project Reviewed.

The project subject to this consistency review is the farming of Pacific oysters on the western side of McClure Bay within Prince William Sound in T.5N, R.7E, Section 23, SM.

The 0.92-acre farmsite would be 750 feet by 50 feet. The hardening area would be 40 feet by 40 feet.

Oysters would be grown inside ten-tier lantern nets. Lantern nets would be spaced every eight feet along each longline and marked with a 15-inch buoy. After three years, three longlines that are 550-feet to 610-feet long would each hold 75 lantern nets. Between 75,000 and 100,000, 15-20 millimeter oyster spat would be purchased in each of the first two years. Between 150,000 and 250,000 spat would be purchased in successive years. Two 1200-pound locomotive wheels with 20 feet of 3/8-inch chain and additional 5/8"-inch nylon line would anchor each longline on a 2:1 scope. Marker buoys placed at either end of the lines and over the anchors would be 20 inches.

From May to September, oysters would be hardened in clam sacks on between one and three racks attached to a 40-foot by 40-foot anchored steel frame, which would be removed from the site each September. Oysters would be rotated in and out of the hardening area from mid-May to October.

No uplands would be used, as all operations on the 60-foot by 700-foot farm (43,520 square feet, including hardening area) would be supported from a marine vessel with housing and sanitary facilities (sewage holding tank). Equipment not in use would be stored off site.

The farmsite would be worked bi-weekly April-May, weekly June-September, and monthly during the winter. Product would be transported approximately 34 nautical miles to Whittier for testing and sale.

This final consistency determination applies to the following federal and State authorizations per 6 AAC 50:

U.S. Army Corps of Engineers
General Permit 91-7M

Alaska Department of Fish and Game (DFG)
Aquatic Farm Operation Permit

Department of Natural Resources (DNR)
Aquatic Farmsite Lease No. ADL 227611

No State or federal agency may issue an authorization before DGC issues a final consistency determination. But, a consistency determination does not obligate any agency to issue authorization under its own statutory authorities, nor does it supersede its statutory obligations. Authorities outside the ACMP may result in additional permit/lease conditions not contained in the consistency determination. If the DNR Aquatic Farmsite Lease and DFG Aquatic Farm Operation Permit are issued, they will have an effective date of March 2, 2000, per 6 AAC 50.070(e)(3) & (10) and 6 AAC 50.130. You may not use any State land without these authorizations.

The U.S. Army Corps of Engineers (COE) has informed me that your project appears to meet the requirements of General Permit 91-7M "Aquatic Farm Structures within the State of Alaska." This permit has already been found consistent with the ACMP and is not subject to further review. If you have questions regarding requirements concerning this permit, please contact Houston Hannafious at 800-478-2712.

Discussion of Issues

Members of the public, the Whittier Small Boat Harbor, and the U.S. Forest Service raised concerns about the consistency of this mariculture operation.

McClure Bay is an important anchorage in Prince William Sound. However, you responded to the State's request for additional information on this topic and noted that the bight used for this farm is not identified in either the Coastal Pilot or Lethcoe's Cruising Guide as a recommended anchorage.

Additionally, long lines placed across the cove opening would compromise public access to motorized boat traffic. However, the lines do not totally cut off beach access; boats will be able to transit around the floats. With the opening of the Whittier Road, access will be even more important.

The USFS, the upland owner, opposes the farm because it is situated within Nellie Juan College Fjord Wilderness Study Area. The structures, floats, and activity associated with the project would

noticeably alter the solitude and wilderness character of the area. The DNR notes that mariculture and other tideland facilities are allowed if they are mostly underwater and cause only limited impact on the wilderness values. A non-obtrusive colored buoy will be required at this site to reduce any visual impact to the area. However, one respondent expressed concern that neutral colors may not be adequate to alert boaters, especially those hunting along the shoreline, to the presence of the long lines.

Several individuals addressed the use of State tidelands for mariculture use. Those who were opposed objected in general to the "privatization" of valuable public assets for farmsites. Those who supported the use noted mariculture was a clean and relatively unobtrusive industry and helped diversify Alaska's economy. Although suspended mariculture projects do make use of State aquatic resources, both statute and regulation condone the use. The State's preliminary best interest finding supports the use of these waters for this oyster farm.

Concerns about introducing oysters related to the potential that with water warming, the oysters might begin to reproduce naturally. The DFG is aware of this concern and is evaluating it.

Conflicts between farms and waterfowl and marine mammals, including the endangered species. DFG, the State agency with expertise in this area, reviewed the potential environmental effects and determined that the proposal is not expected to adversely affect offshore areas, wetlands, or tidelands. DFG also determined that conflicts with commercial fishing should be minimal provided the site does not exceed the maximum percent of the bay allowed and there is no restriction of public use or access.

Determination

The Alaska Departments of Environmental Conservation, Fish and Game, and Natural Resources have reviewed your proposed project. Based on that review, the State concurs with your certification that the project is consistent with the ACMP with the following modifications, that will appear as stipulations on the DFG permit:

1. Aquatic farm facilities shall be designed, constructed, maintained, operated, and appurtenances placed in a manner and location that does not unduly restrict public access around the facility.

RATIONALE: This stipulation is necessary to maintain public access, in accordance with 6 AAC 80.060(b) RECREATION.

2. Floating structures shall be located and secured in such a manner that grounding does not occur at any tidal stage.
3. Upon abandonment of the project, or discontinuance of its use, the permittee shall remove all facilities, appurtenances, and materials, including netting, cables or other objects which may gill, entrap, or entangle fish, shellfish, birds or mammals.
4. If herring spawn on the culture gear or other facilities, the herring eggs shall not be disturbed

or removed. ADF&G shall be notified, in writing, within five days of the spawning occurrence. All eggs shall be allowed to hatch, even though this may result in loss of aquatic farm products being cultured.

5. In order that floating structures not adversely affect anadromous fish habitat, or interfere with salmon schooling or the ability of ADF&G to count, and thereby manage returning salmon, all structures (floating or land-based) shall be located at least 300 feet from the mouth of any anadromous fish stream. "Mouth" is defined in the Catalogue of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes published by the DFG.

RATIONALE: Stipulations 2 through 5 are necessary to protect habitats, in accordance with 6 AAC 80.130 HABITATS.

6. There shall be no on-site shucking or processing of aquatic farm products beyond sorting, washing, grading, and packaging.
7. Garbage and other solid wastes shall be disposed of in a manner that does not attract bears or other animals, and in a manner approved by DEC.

RATIONALE: Stipulations 6 and 7 are necessary to protect water quality and habitats, in accordance with 6 AAC 80.130 HABITATS and 6 AAC 80.140 AIR, LAND AND WATER QUALITY.

This final consistency determination represents a consensus reached between you as the project applicant and the reviewing agencies listed above, regarding the conditions necessary to ensure the proposed project is consistent with the ACMP. Federal authorization of your project will be made with the full understanding that your original project proposal has been modified subject to the conditions described above.

I enclosed a copy of relevant ACMP statewide standards with the proposed determination.

Advisories.

Your consistency determination may include reference to specific laws and regulations, but this in no way precludes your responsibility to comply with all other applicable State and federal laws and regulations.

This consistency determination is ONLY for the project as described. If you propose any changes to the approved project, including its intended use, prior to or during its siting, construction, or operation, you must contact this office immediately to determine if further review and approval of the revised project is necessary. Changes may require amendments to the State approvals listed in this consistency determination or require additional authorizations.

If the proposed activities reveal cultural or paleontological resources, please stop any work that would disturb such resources and immediately contact the State Historic Preservation Office (907-269-8720) and the Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

McClure Oyster Farm
AK 9905-23AA

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January 25, 2000

This final consistency determination is a final administrative decision for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court must be made within 30 days of the date of this determination.

By copy of this letter I am informing the Corps of Engineers of DGC's final determination.

If you have any questions regarding this process, Please phone me at 269-7473, or email (maureen_mccrea@gov.state.ak.us) if you have any questions.

Sincerely,



Maureen McCrea
Senior Project Review Coordinator

cc: Houston Hannafious, COE, Anchorage
ARU, Alaska Operations Office, EPA, Anchorage
Marcia Heer, FWS, Anchorage
Jeanne Hansen, NMFS, Anchorage
Ken Imamura, DFG, Juneau
Mike Ostasz, DEC, Anchorage
Guyla McGrady, DNR/DOL, Anchorage
Don McKay, DFG/DHR, Anchorage
Glenda Landua, KPB, Soldotna
Suzanne Fisler, DNR/DPOR, Soldotna
Commander (O.A.N.), USCG, 17th Dist., Juneau
Michele Jespersen, DNR/SHPO, Anchorage
Chugach National Forest, Anchorage
Mark Stahl, Chugach Alaska Corporation, Anchorage
Charlene Arneson, Coastal Coordinator, City of Whittier, Whittier
Jack Sinclair, Ranger, DNR/SP, Soldotna
R. J. Kopchak, City of Cordova, Cordova
Suzanne Fisler, Kenai River Center, DNR/SP, Soldotna
Dan McDaniel, Eyak Corporation, Cordova
Sue Asplund, Cordova District Fisherman United, Cordova
Nancy Lethcoe, Valdez
Scott McEwen, Alaska Wilderness Recreation & Tourism Association
Kristin Siemann, National Wildlife Federation
Bud Perrine, Prince William Sound Aquaculture Association, Cordova
Bob Chaney, Alaska Science and Technology Foundation
Chris Pallister, Anchorage
John Hilsinger, Anchorage
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